



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

April 27, 2021

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Michael S. Regan
Administrator

A handwritten signature in black ink that reads "Michael S. Regan".

TO: Acting Assistant Administrators
Acting General Counsel
Inspector General
Acting Regional Administrators

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest. I will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I have ethics obligations with respect to my former employer, the North Carolina Department of Environmental Quality (NC DEQ). The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer do not apply to me. The definition of “former employer” excludes state government.¹ Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with my former employer, which is a state government agency. However, on March 11, 2021, EPA’s Designated Agency Ethics Official issued an impartiality determination that authorizes me to participate as Administrator in particular matters that involve the NC DEQ, but not on the very same specific party matters I worked on personally and substantially while employed with the NC DEQ. See attached impartiality determination. Given my previous role at the NC DEQ, I am recusing myself from the following specific party matters:

CASE NAME and/or SUBJECT MATTER:	CITATION and/or DESCRIPTION:
State of California, <i>et al.</i> v. Andrew R. Wheeler, <i>et al.</i>	Case No. 3:20-cv-03005 (N.D. Cal) (litigation involving the definition of WOTUS)
Sierra Club, <i>et al.</i> v. EPA	Case No. 20-1229 (D.C. Cir.) (litigation involving EPA’s April 2020 SIP Call Withdrawal and Air Plan Approval; NC: Large Internal Combustion Engines NOx Rule Changes)
Environmental Committee of the Florida Electric Power Coordinating Group v. EPA	Case No. 15-1239 (D.C. Cir.) (challenge to EPA’s 2015 SIP call)
Round 4 SO2 Designations	As part of the Round 4 SO2 designation, EPA designated Haywood County, NC as attainment/unclassifiable.
Blue Ridge Paper Product Source Specific SIP Revision	In December 2020, EPA approved a source-specific SIP revision for Blue Ridge Paper Products to reduce SO2 emissions from the facility.

If any other specific party matters arise at EPA, in which I participated personally and substantially while at NC DEQ, I understand that I must recuse myself from participating in those particular matters.

¹ See Exec. Order 13989, Section 2(k), which provides that “‘former employer’ does not include...State or local government.”

SCREENING ARRANGEMENT

In order to ensure that I do not participate in particular matters from which I am recused, I have asked Dan Utech, Chief of Staff, to assist in screening EPA matters directed to my attention. All inquiries and comments involving my recusals should be directed to the Chief of Staff without my knowledge or involvement.

If the Chief of Staff determines I am recused, then he will take action or refer it for action or assignment to another, without my knowledge or involvement. In the event that the Chief of Staff is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Dan Utech, Chief of Staff
Alison Cassady, Deputy Chief of Staff for Policy
Dorien Blythers, Deputy Chief of Staff for Operations
Wesley J. Carpenter, Acting Deputy Chief of Staff
Kathleen Lance, Director of Scheduling and Advance
John Lucey, Special Assistant to the Administrator
James Payne, Designated Agency Ethics Official and Deputy General Counsel for
Environmental Media and Regional Law Offices
Justina Fugh, Alternate Designated Agency Ethics Official